



SB 2808 (McCorquodale) would prohibit any automotive repair dealer from charging more than the dealer's regular shop hourly rate, and would define and prohibit the use of the so-called "flat rate" method of charging. SB 2808 is pending in the Senate Business and Professions Committee.

AB 4468 (Elder) would require a retail seller of a policy of extended service warranty to obtain insurance coverage to back up that policy. This bill would do so for the purpose of indemnifying both the seller and the purchaser of the extended service warranty in the event of loss or depletion of the claims reserve account held by the underwriter of the extended service warranty. AB 4468 was amended on April 27 to define "extended service warranty," and exempt retail sellers of such warranties who manufacture products covered therein and obligors under the warranties who manufacture, distribute, or import the goods covered. The measure passed the Assembly on May 12 and is pending before the Senate Committee on Insurance, Claims and Corporations.

AB 3531 (Tanner) would make technical, nonsubstantive changes to the provisions in existing law which require the Bureau of Automotive Repair to establish a program for the certification of third-party dispute resolution processes used for arbitration of disputes under California's "lemon law." AB 3531 is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

AB 3321 (Duplissee), as introduced, would have exempted motor vehicles over 21 years old from the Smog Check Program, while requiring such vehicles to be equipped with exhaust devices, if required by other specified provisions of the law. AB 3321 was amended on May 4 and is no longer relevant to BAR.

SB 1863 (McCorquodale) would authorize emissions warranty service providers to perform emissions warranty service work. Under existing law, there is no authority for a vehicle owner to have emissions warranty service performed except by a person designated by the vehicle manufacturer or its agent. SB 1863 is pending in the Senate Committee on Insurance, Claims and Corporations.

LITIGATION:

Volvo North America Corporation has agreed to dismiss a key lawsuit brought in U.S. District Court in California, in a settlement which could significantly increase the amount of

generic-brand parts used in Volvo-related auto body repairs. In December 1986, Volvo brought a suit against Keystone Automotive Industries Inc., a California-based vehicle parts distributor, alleging patent infringement and challenging the company's right to sell its replacement fenders to garages which repair Volvo cars. Keystone countered that its replacement parts were as good as the Volvo originals and that, because of the generic nature of the parts, they were beyond the bounds of patent protection. The settlement between Volvo and Keystone contains a stipulation which provides that customers will be informed of any attempt to use non-original-equipment manufacturer parts in their vehicles.

FUTURE MEETINGS:

August 26 in Los Angeles.

BOARD OF BARBER EXAMINERS

Executive Officer: Lorna P. Hill
(916) 445-7008

In 1927, the California legislature created the Board of Barber Examiners (BBE) to control the spread of disease in hair salons for men. The Board, which consists of three public and two industry representatives, regulates and licenses barber schools, instructors, barbers, and shops. It sets training requirements and examines applicants, inspects barber shops, and disciplines violators with licensing sanctions. The Board licenses approximately 22 schools, 6,500 shops, and 21,500 barbers.

MAJOR PROJECTS:

Regulatory Changes. On April 11, the Board conducted a hearing in San Diego on proposed changes to Chapter 3, Title 16 of the California Code of Regulations. Existing regulations provide no standards for models used by applicants taking the practical portion of the barber examination. Proposed section 229, which would set such standards, was initiated because the Board has received numerous complaints from examination candidates who believe their models have been rejected arbitrarily by the examiners. The Board established the proposed model standards after extensive discussion with examiner field representatives, barber college owners, and industry Board members on the minimum hair length required for a candidate to demonstrate a haircut; minimum beard growth required for a shave; and specific prohibitions against certain

persons serving as models. After the hearing, the Board voted to adopt the regulation as originally drafted. The Board will forward the proposed regulation to the Office of Administrative Law (OAL) for approval in the near future.

The Board's many proposed changes to regulations contained in Chapter 3, which were enumerated and discussed in CRLR Vol. 8, No. 2 (Spring 1988) at p. 44 and adopted by the Board in January, are being reviewed by the Department of Consumer Affairs (DCA) at this writing. All regulatory changes adopted by DCA boards and bureaus must be reviewed by the Department before submission to the OAL. (For background information, see CRLR Vol. 8, No. 1 (Winter 1988) p. 45.)

Changes to Practical Portion of Exam. At its April meeting, the Board voted to make major revisions to the practical portion of its licensure exam. Specifically, the BBE decided to delete sections of the practical exam covering shampoo, hairstyle, hair coloring, chemical hair straightening, and chemical waving.

The Board's action was immediately met with protests from representatives of northern California barber schools who had not been in attendance at the April meeting and were unable to comment on proposed exam revisions before the BBE voted to implement them.

The Board's agenda for its April meeting did not specify that the Board would discuss possible revisions to the practical portions of the exam, nor did it indicate that the Board would actually vote on the matter. The agenda did list "Examination Review" as an item for Board consideration and enumerated specific topics for discussion in that subject area—none of which indicated that actual exam revisions would be determined. The state's open meetings law provides that the notice of a meeting of a state body "shall include a specific agenda for the meeting, which shall include the items of business to be transacted or discussed, and no item shall be added to the agenda subsequent to the provision of this notice." Government Code section 11125(b).

At the urging of BBE Executive Officer Lorna Hill, the Board reconsidered its decision at a May 16 meeting in Los Angeles. Ms. Hill provided Board members with an analysis indicating that the exam revisions would significantly reduce the examinee passage rate. Board members voted to rescind their April decision and reconsider the matter at a future meeting.



Examination Scheduling. In February, the Board implemented an experimental program to allow "standby" examinees to take the places of candidates who fail to appear for scheduled licensing exams in southern California. (For background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 45.)

A plan was developed to cover the six examinations scheduled for February 8 through March 14. This time period was chosen so that results of the experimental program would be available for the Board's meeting on April 11. Fourteen persons are regularly scheduled for each examination. During the experimental period, an additional three persons were scheduled for each examination on a standby basis. The results of the six-week program indicated that 83% of the standbys did not appear at the examinations. A BBE report on the matter noted that all persons who were scheduled as standbys would have been able to take the exam. According to Executive Officer Hill, she intends to recommend that the Board vote to discontinue the standby program at its June meeting in San Francisco.

BBE Goals and Objectives. Also in April, the Board adopted formal policy goals and objectives. The three areas receiving special emphasis include (1) reviewing and improving the examination process; (2) improving the quantity and quality of communications between the Board and BBE staff; and (3) improving the quantity and quality of communications between the Board and its licensees.

RECENT MEETINGS:

The representatives for the Chino Youth Training Program failed to appear at BBE's April meeting. (For background information, see CRLR Vol. 8, No. 2 (Spring 1988) p. 45.) The Board hopes to consider full certification of the program at a future meeting.

FUTURE MEETINGS:

To be announced.

BOARD OF BEHAVIORAL SCIENCE EXAMINERS

Executive Officer: Kathleen Callanan (916) 445-4933

The eleven-member Board of Behavioral Science Examiners (BBSE) licenses marriage, family and child counselors (MFCCs), licensed clinical social workers (LCSWs) and educational psychologists (LEPs). The Board administers tests to license applicants, adopts

regulations regarding education and experience requirements for each group of licensees, and appropriately channels complaints against its licensees. The Board also has the power to suspend or revoke licenses. The Board consists of six public members, two LCSWs, one LEP, and two MFCCs.

LEGISLATION:

AB 2872 (Jones). Under existing law, people providing mental health services under the Short-Doyle Act and requiring licensure may not be employed unless they possess a currently valid license. Waivers may be granted by the state Department of Mental Health to psychologists, clinical social workers, and marriage, family and child counselors who are employed in their respective professions and are gaining qualifying experience for licensure, as specified. This bill would specify criteria for extending waivers for such persons employed less than full time and would also provide for a one-year extension of a waiver for a person employed full time as a psychologist, based on extenuating circumstances. The measure has passed the Assembly and is pending in the Senate Appropriations Committee at this writing.

AB 3956 (Katz) has been amended since its introduction by Assembly-member O'Connell in February. As originally worded, the bill would have included MFCCs within the definition of "physician" for purposes of workers' compensation eligibility evaluation. As amended on April 18, the law pertains to unemployment compensation disability payments. Existing law requires that each uninterrupted period of disability be supported by the certificate of a physician or other specified health professional. This bill would allow licensed MFCCs to certify a disability resulting from a mental disorder or condition. The bill failed passage in the Assembly Finance and Insurance Committee but was granted reconsideration, and it was referred to the Assembly Health Committee on June 2.

AB 3768 (Chacon), as amended April 27, would expand the definition of "psychotherapist" used in section 1010 of the Evidence Code, which provides that confidential communications between a patient and a psychotherapist shall be privileged. AB 3768 would include, for those purposes, a person exempt from the Psychology Licensing Law, as specified, and a psychological intern. The measure passed the Assembly on May 5 and is pending in the

Senate Judiciary Committee.

AB 4182 (Moore), as amended in the Assembly on May 2, would augment existing licensure requirements for psychologists, LCSWs, MFCCs, and LEPs. The bill would require that, on or after January 1, 1989, any person applying for licenses or renewal of licenses in those professions shall show evidence of completion of training in cross-cultural counseling or psychotherapy, or the cross-cultural delivery of other services within the scope of the person's practice. AB 4182 is pending in the Assembly Health Committee.

The following is a status update on measures discussed in CRLR Vol. 8, No. 2 (Spring 1988) at page 46:

AB 4617 (Lancaster), concerning business names of MFCC corporations, passed the Assembly on June 1.

SB 1552 (Kopp), regarding AIDS training for BBSE licensees, remains pending in the Assembly Health Committee.

SB 1642 (Keene) was signed by the Governor on March 31 (Chapter 66, Statutes of 1988) and became immediately effective as urgency legislation.

SB 2657 (Watson), as amended on May 4, would now provide for an increase in the Board's delinquency fee, in addition to those fee increases specified in the bill as introduced. The bill would also authorize the imposition of fees for the rescoring of an examination, the issuance of a duplicate license, and the issuance of a letter of good standing. The bill passed the Senate on May 12 and is currently pending in the Assembly Health Committee.

SB 2658 (Watson), concerning licensure of clinical social workers, was amended on April 19 to provide that up to 1,000 hours of required experience may be gained under the supervision of a licensed mental health professional acceptable to the Board. The bill passed the Senate on May 20.

LITIGATION:

In *Richard F.H. v. Larry H.D., M.D.*, 88 D.A.R. 1655, No. A037782 (First District Court of Appeal, Feb. 11, 1988), plaintiff Richard F.H. sued Dr. D, a licensed psychiatrist employed by St. Helena Hospital and Health Center, for fraud, professional negligence, and negligent infliction of emotional distress. The gist of plaintiff's complaint was that Dr. D had sexual relations with plaintiff's wife while the couple were Dr. D's patients for the purpose of receiving marital counseling. Plaintiff claimed that the discovery of this fact caused him severe emotional distress.